

**PT 06-35**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

---

---

**ST. LUKE CHURCH  
OF GOD IN CHRIST,  
Applicant**

**v.**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**05-PT-0023**

**Real Estate Tax Exemption**

**For 2004 Tax Year  
P.I.N. 17-04-429-015-0000**

**Cook County Parcel**

**Kenneth J. Galvin  
Administrative Law Judge**

---

---

**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Amos Smith, on behalf of St Luke Church of God in Christ; Mr. John Alshuler, Special Assistant Attorney General, on behalf of The Department of Revenue of the State of Illinois.

**SYNOPSIS:**

This proceeding raises the issue of whether the subject property, identified by Cook County Parcel Index Number 17-04-429-015-0000 (hereinafter the “subject property”) qualifies for exemption from 2004 real estate taxes under 35 ILCS 200/15-125, which exempts parking areas, not leased or used for profit, and owned by a religious institution.

The controversy arises as follows: On February 1, 2005, St Luke Church of God in Christ (hereinafter “St Luke” or “applicant”) filed a Real Estate Exemption Complaint

for the subject property with the Board of Review of Cook County (hereinafter the “Board”). Dept. Ex. No. 1. The Board reviewed the applicant’s complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the exemption be denied. Dept. Ex. No. 2.

On April 14, 2005, the Department accepted the Board’s recommendation finding that the subject property was not in exempt use. Dept. Ex. No. 2. On April 28, 2005, the applicant filed a timely request for a hearing as to the denial and presented evidence at a formal hearing on April 27, 2006, with Pastor James Austin and Marva Land, applicant’s Business Administrator, providing oral testimony. Following submission of all evidence and a careful review of the record, it is recommended that the parking lot be exempt from property taxes for the 2004 assessment year.

**FINDINGS OF FACT:**

1. Dept. Ex. Nos. 1 and 2 establish the Department’s jurisdiction over this matter and its position that P.I.N. 17-04-429-015-0000 was not in exempt use during the 2004 assessment year. Tr. pp. 10-11; Dept. Ex. Nos. 1 and 2.
2. St. Luke has exclusive use of the parking lot on Saturdays and Sundays and weekdays after 7:00 p.m. St. Luke also uses the parking lot for prayer meetings and funerals during the week and stores its sanitation containers in the parking lot. In 2004, St Luke used the parking lot for eight functions held on weekday evenings. Tr. pp. 15-17, 29-32; App. Ex. No. 3.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that the applicant has demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant exempting P.I.N. 17-04-429-015-0000 from property taxes for the 2004 assessment year. In support thereof, I make the following conclusions.

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-40 of the Property Tax Code which exempts “[a]ll property used exclusively for religious purposes...” and section 15-125, which exempts parking areas, owned by a religious institution, not leased or used for profit, and used as a part of a use for which an exemption is provided in the Property Tax Code. 35 ILCS 200/15-40 and 35 ILCS

200/15-125, respectively. At the evidentiary hearing, counsel for the Department stipulated to the fact that the parking lot was owned by St. Luke and that St. Luke was an exempt religious institution. Tr. p. 12. Accordingly, the only remaining issue is whether the parking lot was in exempt use during 2004.

St. Luke has exclusive use of the parking lot on Saturdays and Sundays and weekdays after 7:00 p.m. St. Luke also uses the parking lot for prayer meetings and funerals during the week and stores its sanitation containers in the parking lot. Pastor James Austin testified that St. Luke uses the parking lot for three services on Sunday, 8:45 a.m., 12:30 p.m. and 7:15 p.m., and for Sunday school at 11:15 a.m. and 5:45 p.m. On Mondays and Fridays, St. Luke holds ‘Morning Prayer’ from 9:30 a.m. to 10:30 a.m. and ‘Evening Prayer’ from 6:00 p.m. to 8:30 p.m. There are weekday services on Tuesday at 7:30 p.m. (“Elder Joe Redic”), Wednesday at 6:30 p.m. (“Bible Institute”), Thursday at 7:30 p.m. (“Prayer and Bible Band”) and Friday at 8:00 p.m. (“Service”). Tr. pp. 15-17, 29-32; App. Ex. No. 3.

The parking lot was used for other weekday meetings and functions during 2004, including the 39<sup>th</sup> Annual Ministers’ and Workers’ Meeting (February 23 through February 27, Monday through Friday), Annual State Fellowship Service (March 15 and 16, Monday and Tuesday), Bible Institute 2004 (March 31, Wednesday), Annual Women’s Day Service (June 10, Thursday), Fifth Jurisdictional Meeting (November 22, Monday), Member Care Ministry (November 29, Saturday), Book Fair (December 4, Saturday) and a Bible Institute Meeting (December 15, Wednesday). Tr. pp. 29-32; App. Ex. No. 3.

Pastor Austin testified that St. Luke had outgrown the space available at the church and needed additional space for an office. St. Luke rented office space located one-half block east of St. Luke from The Lumber Company. This space was used “strictly for church use, recordkeeping and for holding meetings.” Tr. pp. 19-26; App. Ex. No. 2.

In exchange for the use of The Lumber Company’s office space, St Luke allowed The Lumber Company to use the parking lot for automobile parking, Monday through Friday, 6:00 a.m. to 7:00 p.m. Tr. pp. 17-19; App. Ex. No. 1. St. Luke retained the right, at its discretion, to use the parking lot Monday through Friday, 6:00 a.m. to 7:00 p.m., for religious purposes. Tr. pp. 19-26; App. Ex. No. 2. Pastor Austin testified that St. Luke would not have allowed The Lumber Company to use the parking lot if it had not been for St. Luke’s need for office space. Tr. p. 24.

The testimony and evidence of record shows that St. Luke has exclusive use of the parking lot on Saturdays and Sundays and after 7:00 p.m. on weekdays. St. Luke, at its discretion, could use the parking lot at other times for religious purposes. I conclude from the testimony and the evidence of record that the parking lot was primarily used for an exempt religious purpose as is required by 35 ILCS 200/15-125 and that The Lumber Company’s use of the lot was incidental to St. Luke’s use.

WHEREFORE, for the reasons stated above, I recommend that P.I.N. 17-04-429-015-0000 be exempt from property taxes for the 2004 assessment year, during which time the property was primarily used for religious purposes.

August 31, 2006

Kenneth J. Galvin  
Administrative Law Judge